



Triangle Communication System, Inc.

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July 14, 2009

Mr. Thomas Buckley
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

RE: Ex parte filing in CC Docket No. 96-45

Dear Mr. Buckley:

In a June 18, 2009 ex parte meeting with Jeff Smith, additional information was requested by the Federal Communications Commission (FCC) staff concerning the Triangle Communication System, Inc. (TCS) application. The purpose of this letter is to respond to those questions.

Cream Skimming

In areas where an Eligible Telecommunications Carrier (ETC) applicant seeks designation below the study level of a rural telephone company, the FCC will conduct a cream skimming analysis that, within a study area in which the applicant seeks designation, compares the population density of each wire center in which the ETC applicant seeks designation against that of the wire centers in which the ETC applicant does not seek designation. TCS seeks to provide service below the study area level of two rural telephone companies, Central Montana Communications, Inc. (CMC) and Triangle Telephone Cooperative Association, Inc. (TTCA). The population density data provided as **Exhibit A** demonstrates that TCS will not primarily serve customers in low-cost, high density portions of the study areas of CMC and TTCA. The attached Exhibit A provides detailed population density data including individual wire center population density and the total service area population density of CMC and TTCA. Specifically, TCS provides population data, total square mileage, and population density calculations for each wire center in CMC and TTCA's study areas. Under the Coverage column, the wire center labeled "Entire" are those wire centers in which TCS provides service to the entire wire center, and therefore, in which TCS seeks redefinition. Consistent with the Highland Cellular Order, TCS does not seek ETC designation or redefinition in partial wire centers.

As a general matter, TCS proposes to serve very rural portions of Montana. TCS's proposed ETC service area does not include any urban or metropolitan areas (Exhibit A – Montana County Population Density). In fact, the most densely populated wire center in TCS's proposed ETC service area has a population density of 8.34 persons per square mile, hardly the "cream" of potential service areas. In examining population density for the purpose of assessing the likelihood of cream skimming, the FCC has found that there is no likelihood of cream skimming where the population density in the wire centers sought to be served by the ETC is low, even where the average population density of such wire centers may be greater than the average population density of the remaining wire centers. Given the sparsely populated wire centers in CMC's and TTCA's study areas, ranging from less than half a person

per square mile to a maximum of 8 persons per square mile, any disparities in population density are clearly not significant.

Although comparing population densities as low as one person per square mile lacks relevance with regard to cream skimming, TCS notes that TTCA's study area has a substantially greater population density than the wire centers TCS seeks to serve. In addition, TCS seeks to provide service to the four highest-cost, lowest density wire centers in TTCA's study area and only one of the six most densely populated wire centers in TTCA's study area. The population density information further illustrates that TCS is not seeking to serve only the low-cost, high density wire centers of CMC and TTCA's study areas.

The FCC established guidelines for ETC designations that Public Service Commission's are encouraged, but not obliged, to adopt. The FCC said that by serving a disproportionate share of the high-density portion of a service area, an ETC may receive more support than is reflective of the rural ILEC's costs. The FCC "encouraged" states to examine the population densities among wire centers to see if an ETC applicant would be serving "only" the most densely concentrated areas within a rural service area (FCC 05-46, 49). The FCC added that because low population density typically indicates a high-cost area, analyzing the disparities in densities can reveal when an ETC would serve "only" the lower cost wire centers to the exclusion of other less profitable areas (FCC 05-46, 50).

The Montana Public Service Commission (MPSC) finds it is apparent from evidence on CMC's study area and recent population statistics that TCS's application does not seek to just serve the relatively high density Montana towns in the underlying carrier's study areas. CMC's study area is illustrative.

Based on TCS's attachment (Exhibit A) it is apparent that the CMC study area includes, in effect, two separate geographic areas. The larger of these two areas includes the relatively sizeable communities of Fort Benton, Harlowton and White Sulphur Springs. In contrast, the other geographic area, running from Malta to Harlem, includes the relatively smaller community of Dodson. From a review of Exhibit A, population of Dodson (65); Fort Benton (1797); Harlem (1485); Harlowton (1538); Malta (2471); and White Sulphur Springs (881). Thus, it is obvious TCS has not petitioned to only serve the relatively higher population density towns in CMC's study area. In addition, however, the communities of Cherry Ridge, Cleveland, Savoy, and Turner, communities that will also receive TCS' wireless service are so small that they are not even listed in statistical sources.

Rural "cream skimming" occurs when competitors serve only the low-cost, highest revenue customers in a rural telephone company's study area. TCS based its requested ETC area on its licensed service area and requested redefinition at the wire center level in accordance with the FCC's Highland Cellular Order. Pursuant to Highland Cellular, the FCC analyzes several factors to determine whether the CETC is attempting to cream skim, including the service area in which the ETC applicant requests designation, whether the incumbents have taken advantage of disaggregation, and population density.

The MPSC noted that although neither TTCA nor CMC opted to disaggregate their respective service areas, the MPSC does not believe it is necessary for them to do so in order to prevent cream skimming. The MPSC stated the TTCA and CMC can take advantage at any time of the opportunity to disaggregate and target universal service support at the exchange level within their service territories, based on their

estimated cost to serve each exchange, thus virtually eliminating any concerns about cream skimming. The Joint Board and the FCC have recognized that targeting support in this manner reduces concerns of rural cream skimming.

In its' ETC Order, however, the FCC stated that disaggregation does not address all cream skimming concerns. The FCC found that cream skimming may still be a concern when a competitor proposes to serve only the low-cost areas to the exclusion of high-cost areas in a rural telephone company's service area. The FCC, therefore, analyzes the population densities of the affected wire centers in order to ensure that designating the applicant as an ETC in portions of rural local exchange carrier (LEC) service areas would not result in cream skimming.

Population Density

TCS conducted a population density analysis in the areas in which it requested study area redefinition at the wire center level. TCS's combined access-line density analysis indicates that there is no cream skimming of low-cost areas. The MPSC concluded that "...TCS has not targeted the low cost, high density parts of TTCA's and CMC's 'service area'." Further, the MPSC states that, "...based on measures of density ...cream skimming is not likely." Accordingly, the MPSC found that TCS's redefinition of TTCA and CMC's study areas will not result in cream skimming.

TCS is committed to serve all the incumbent LEC's exchanges that fall within its 800 MHz license. Further TCS is committed to serve the areas within those incumbent LECs' exchanges that are presently unserved by a wireless carrier and that are best suited for creating a contiguous wireless service area within which TCS can expand its wireless.

TCS proposes to serve very rural portions of Montana. TCS's proposed ETC service area does not include any urban or metropolitan areas. In fact, the most densely populated wire center in TCS's proposed ETC service area has a population density of 8.34 persons per square mile, hardly the "cream" of potential service areas.

TCS did not pick and choose the most lucrative exchanges to serve. It will serve all the LECs' exchanges that fall within its 800 MHz licensed area, including the areas within those exchanges that are presently unserved by any wireless carriers.

In its Virginia Cellular order, the Federal Communication Commission (FCC) determined when defining a service area other than the study area that it would consider minimizing cream skimming. Rural cream skimming occurs when competitors serve only the low-cost high revenue customers in a rural telephone company's study area. TCS asserts it is not cream skimming as it seeks to be designated within its "entire" FCC licensed service area (see TCS's November 23, 2005, Amended Petition, p. 4/6, emphasis added.)

The MPSC finds, based on measures of density, that cream skimming is not likely. The MPSC's finding of merit is not without concern, but its concerns do not outweigh the expected benefits of designating TCS as an ETC in the redefined study areas.

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The MPSC finds more merit in the access line density data TCS filed. The PSC finds that TCS's density data for the combined study area to be most relevant. It is also relevant because there is arguably a community of interest that overlaps portions of the two Incumbent LEC's study areas.

While not contained in TCS's testimony, what is also relevant is the relation of the density of the existing and the redefined study areas of each LEC to the density of more urban areas of the country. If customers in rural areas, such as TTCA's and CMC's study areas, are to begin to have wireless services that are comparable to those available in urban areas of the country, then there is need to progress in this direction. That is the law promulgated under the Telecommunications Act of 1996. TCS's ETC application is an effort to advance the provision of universal service in rural areas of Montana. In addition, as the FCC notes "Although giving support to ETC's in particularly high-cost areas may increase the size of the fund¹, we must balance that concern against other objectives, including giving consumers throughout the country access to services comparable to services in urban areas and ensuring competitive neutrality" (FCC05-46, CC96-45, March 17, 2005, para. 56). TCS's use of combined density data is, therefore, a reasonable approach. And, if cost correlates to density, then the cost that TCS incurs must also be considerable relative to the cost other wireless carriers incur to serve the more urban areas of the country.

For the above reasons, the MPSC approved of TCS's proposal to redefine the study areas of each of TTCA and CMC. Approval of TCS's redefinition proposal is in the public interest as determined by the MPSC and TCS requests that the FCC come to the same conclusions as that of the MPSC. The FCC would then designate TCS as an ETC in the redefined areas of CMC and TTCA.

Thank you for your consideration of this matter.

Sincerely,

Richard Stevens
General Manager/CEO

Cc: Jeffry H. Smith, GVNW

¹ With the CETC capping order now in place, concerns about the increase in the size of the fund should be somewhat mitigated.